

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BILL LIETZKE,
Plaintiff,
vs.
COUNTY OF MONTGOMERY, et al.,
Defendant.

Case No. 2:13-cv-01023-JCM-GWF

FINDINGS AND RECOMMENDATION

This matter comes before the Court on Plaintiff Bill Lietzke's ("Plaintiff") failure to file an Amended Complaint pursuant to Order (#2).

This matter commenced on June 10, 2013, with the filing of Plaintiff Lietzke's complaint and motion/application to proceed *in forma pauperis* (#1). Plaintiff's motion to proceed *in forma pauperis* was granted. The Court also dismissed the Complaint, without prejudice, for jurisdictional deficiencies. Plaintiff was ordered to file an amended complaint by January 5, 2014.

Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the Plaintiff fails to prosecute or to comply with these rules or a court order. Pursuant to Order #2, Plaintiff had until January 5, 2014 to file an amended complaint. Notice was mailed to Plaintiff on December 9, 2013. More than nine months have elapsed since the order was mailed and Plaintiff has not filed an amended complaint. Accordingly,

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1 **RECOMMENDATIONS**

2 **IT IS HEREBY RECOMMENDED** that Plaintiff's complaint be **dismissed with**
3 **prejudice.**

4 **NOTICE**

5 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
6 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
7 held that the courts of appeal may determine that an appeal has been waived due to the failure to
8 file objections within the specified time. *Thomas v. Arn*, 474 U.S 140, 142 (1985). This circuit has
9 also held that (1) failure to file objections within the specified time and (2) failure to properly
10 address and brief the objectionable issues waives the right to appeal the District Court's order
11 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
12 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

13 DATED this 12th day of September, 2014.

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16 GEORGE FOLEY, JR.
17 United States Magistrate Judge